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Human rights situations that require the Council's attention

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), the International-Lawyers.Org and the United Towns Agency for North-South Cooperation, non-governmental organizations in special consultative status, and the International Educational Development, Inc. and the World Peace Council, non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 August 2018]

* Issued as received, in the language(s) of submission only.

The Context of the Conflict in the Democratic Republic of Congo (DRC)••

The violence perpetrated in the Democratic Republic of Congo (DRC) is a direct response to the political clashes and governmental repression resulting in President Joseph Kabila's unwillingness to respect the constitutional two-term mandate which was supposed to end on December 19, 20161. Actually, political elections and the process by which former presidents have taken power have always been undemocratic and preceded and followed by violence. Joseph Désiré Mobutu took power in 1965 after a military coup against Joseph Kasa Vubu. He stayed in power until 1971 and was followed by two other auto proclaimed presidents: Mobutu Sese Seko held power for 32 years and was overthrown by opposition rebels while Laurent-Désiré Kabila was assassinated in 2001 by a bodyguard. January 17, 2001, marked the beginning of Joseph Kabila's presidency and lasted for two terms.

Before and during his presidency millions in Eastern Congo witnessed between 1996 and 2003 increased violence, diseases and starvation which resulted in the death of millions of people. Furthermore, several opposition leaders and activists were detained in order to silence them and Kabila was accused of trafficking the 2011 elections. At the end of his second term and considering his inability to extend his mandate, Kabila generated widespread anger over which he is accused of twice delaying the elections that were supposed to take place in 2016.

Two years later, 8th of August 2018 marks the end of the suspense over Kabila's potential decision to run for a third term, however, he supports a member of his own party Emmanuel Ramazani Shadary's candidacy as the next president. His decision to step back can be explained by his lack of popularity (a poll made by the Congo Research Group established in March that 74% of DRC citizens wanted him to immediately step down) as well as bloody riots that took place these past months confirmed the poll results. Furthermore, the United States threatened both Kabila and his family with sanctions if he were to run again.

Numerous problems remain since Kabila is highly mistrusted due to his repeated broken promises and even if he does respect his decision, there are absolutely no insurances that the elections are going to be held in a free, fair and transparent manner. Two reasons behind this mistrust are the fact that voting machines are going to be used and thus makes the voting process less reliable. Secondly, opposition leaders have encountered several obstacles that might prevent them from running such as in the questionable eligibility of Jean-Pierre Bemba, the leader of a former rebel group that became a political party and who was formally accused of war crimes by the International Criminal Court. Moise Katumbi, former Kabila supporter was banned from entering the country for alleged charges.

The point being is that even if one of the opposition leaders wins the elections, it does not necessarily translate into peace. Prior to Kabila's presidency, violence was already part of Congolese's people daily life. Indeed, corruption, ethnic cleansing, tensions over resources, money laundering, embezzlements, grave human rights violations, repression, threats and illegal detentions and the list goes on. DRC has become one of the most expensive and long-lasting humanitarian crises. It is for the benefit of DRC people and for the international community to remedy this situation considering that more than eight countries are involved in DRC's politics and the formation of several armed forces has hindered the possibility of a democratic, unified and independent DRC. It is also the duty of the Human Rights Council, the General Assembly, and other relevant bodies to intervene to stop the systematic human rights abuses and hold perpetrators to account for their crimes.

The humanitarian crisis in DRC and the associated mandate

The humanitarian crisis in DRC has gravely affected civilians and the violence and human rights abuses continue to intensify and spread. By the end of June 2018, there were nearly 1,150 cases of cholera reported in the greater Kasai during this second outbreak of cholera since the start of the crisis in August 2016. Worse still, the reports have indicated that educational and medical facilities among others are being targeted which only further deteriorates the humanitarian situation and directly affects the lives of thousands of children.

Moreover, recent reports have also revealed that aid workers and asylum seekers have been the victims of shootings by Congolese soldiers in South Kivu. Targeting aid or humanitarian workers amounts to war crimes under the Statute of the International Criminal Court as such actions violate the Geneva Conventions of 12 August 1949, which protects aid workers under customary International Humanitarian Law (IHL).

1 Joseph Kabila was elected under the new constitution in 2006 and re-elected in 2011.

The United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) was proceeded by MONUSCO on July 1, 2010, which is the United Nations Organization Stabilization Mission in DR Congo. Initially, Security Council Resolution 1925 established their mandate which has the mission "to use all necessary means to carry out its mandate relating, among other things, to the protection of civilians, humanitarian personnel and human rights defenders under imminent threat of physical violence and to support the Government of the DRC in its stabilization and peace consolidation efforts".

December 2017 marks the appointment of Ms. Leila Zerrougui as the Special Representative of the United Nations Secretary-General in the Democratic Republic of the Congo (DRC) and Head of MONUSCO whose role is to ensure "good offices in support of the political process and protecting civilian populations… full implementation of the 31 December Agreement" which guides the process of organizing elections, as well as the peaceful transfer of power.

Overall, the mandate's mission is to achieve a stable, democratic and peaceful DRC. Since April 2018, 20,600 personnel were deployed in this regard varying from civilians, police, experts on mission, contingent troop, staff officers and UN volunteers. However, technical and financial assistance is urgently needed especially in the short term and capacity-building is both crucial and necessary in order to accomplish this mission in the long-term.

The situation of children in DRC

A special attention must be drawn to the situation of children in DRC considering the extent of the violence committed against them and their level of vulnerability. We believe that it is unforgiveable for children to be victims of such grave violations.

According to the annual report of the Secretary-General on children and armed conflict of 2017, the fragmentation of armed groups and switching parties and ideologies have contributed to the degradation of the situation of children in the country. In fact, 1049 children were newly recruited and used by Kamuina Nsapu, Mai-Mai Mazembe, Nyatura, Raia Mutomboki and Mai-Mai Charles, FRPI, Nduma défense du Congo-Rénové (NDC-Rénové), Mai-Mai Yakutumba and Forces démocratiques de libération du Rwanda-Forces combatants abacunguzi (FDLR-FOCA). Further violations include 291 boys and 11 girls detained for one year for allegedly being associated with armed groups. 156 children were killed and 178 were maimed. Cases of rape and sexual violence against 179 girls and 2 boys. 396 attacks on schools and 119 attacks on hospitals. 143 girls, 277 boys, and 17 humanitarian personnel were abducted. Eight incidents of denial of humanitarian access. It is, however, fair to suppose that these statistics do not necessarily reflect the reality and we can easily assume higher numbers of violations considering the numerous active armed forces involved in the conflict within the country.

These statistics are extremely alarming; however, some progress was still achieved. For example, the FARDC did not manage to prevent sexual violence but it did manage to end and prevent the recruitment and use of children, which owed it to be delisted in 2017. Training of the National Security Forces to implement the action plan were conducted, as well as, the government taking initiatives in terms of discipline and accountability (helpline for victims around the country, military justice system used for cases of child recruitment and sexual violence).

Recommendations

To the government of the Democratic Republic of Congo

- *Conduct and hold* fair, transparent and free elections in December 2018;
- *Ensure* the protection of civilians in accordance with UNSCR 1925;
- *Comply* with International Humanitarian Law and International Law especially with respect to aid workers and children, as it is the part of the state's responsibility;
- *Ensure* that the training of the National Security Forces is efficient and effective and *extend* the training to any authority officer;
- *Monitor* the learning process of DRC authorities in accordance with International Humanitarian Law and Human Rights laws;
- *Allow* humanitarian access and guarantee safer and more peaceful protests as part of the freedom of expression and association.

To the Human Rights Council

- *Take measures to hold to account* Kabila's clan and any People's Party for Reconstruction and Democracy member for their part in any human rights violations;
- *Investigate* and *determine* the extent of stolen public funds and ensure its proper restitution;
- *Administer* all relevant and capable bodies and stakeholders to compensate the victims of human rights abuses;

- *Refer* to the International Criminal Court to hold accountable individuals responsible for grave human rights violations such as crimes against humanity and war crimes;
- Closely *monitor* the human rights situation prior to and after the December 2018 elections.

**Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, Human Rights Defenders (HRD), Association of Humanitarian Lawyers (AHL), NGOs without consultative status, also share the views expressed in this statement.